

**FILED**

09/29/2021

Shirley Faust

CLERK

Missoula County District Court  
STATE OF MONTANA

By: Donna Duffy

DV-32-2021-0001203-NE

Vannatta, Shane

1.00

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Attorney for Plaintiff

**MONTANA FOURTH JUDICIAL DISTRICT  
MISSOULA COUNTY, MONTANA**

ALICE JOHNSON,

Plaintiff,

vs.

WALMART, INC.,

Defendant.

Dept. No. \_\_\_\_\_

Cause No. \_\_\_\_\_

Judge \_\_\_\_\_

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

COMES NOW the Plaintiff, Alice Johnson, by and through her attorney of record, and for her cause of action against the Defendant, Walmart, Inc., states and alleges:

1. Plaintiff Alice Johnson (hereinafter "Plaintiff") is a resident and citizen of Missoula County, Montana.

2. Defendant Walmart, Inc. (hereinafter "Defendant") is a foreign corporation with its principal office at 702 SW 8<sup>th</sup> Street, Bentonville, Arkansas, 72716.

3. Defendant conducts business in Missoula, Montana, and owns and operates Supercenter #3259 located at 3555 Mullan Road, Missoula, Montana.

4. Jurisdiction and venue are appropriate in this Court as Defendant is found in Missoula County, Montana, and the facts surrounding this Complaint occurred in Missoula County, Montana.

**EXHIBIT**

**A**

**FACTS COMMON TO ALL COUNTS**

5. Defendant is one of the largest retail businesses in the world and is responsible for maintaining its public spaces in a safe manner for its customers.

6. On the evening of October 23, 2020, snow started falling in Missoula, accompanied by below-freezing temperatures. The snow continued falling throughout the night of October 23, 2020, and continued into the early hours of October 24, 2020.

7. Climatological data from the United States Department of Commerce, National Weather Service, and other sources, indicates that 8.4 inches of snow fell on the evening and night of October 23, 2020, and 5.4 inches of snow fell between the hours of 12 a.m. and 6 a.m. on October 24, 2020, with some additional accumulation around 7 a.m.

8. The same climatological data indicates that the high temperature on October 24, 2020, was 28 degrees Fahrenheit, and the low temperature was 11 degrees Fahrenheit on October 24, 2020.

9. Over twelve hours after the snow stopped falling on October 24, 2020, Plaintiff shopped at Defendant's store Supercenter #3259 located at 3555 Mullan Road, Missoula, Montana.

10. When Plaintiff walked out of the store at approximately 7:30 p.m. on October 24, 2020, she slipped and fell on accumulated snow and ice on the sidewalk immediately in front of the store entrance/exit.

11. Due to her injuries (fractures of left tibia, fibula, and heel bone), Plaintiff needed immediate medical attention and was transported by private vehicle to a nearby health care facility for treatment.

12. After receiving medical treatment, Plaintiff notified Defendant of her injuries the next day.

13. Video footage captured part of the fall, and the video footage is in the control and possession of Defendant.

14. Defendant failed to remove the snow and ice, and also failed to properly remedy and treat the ice and snow so as to make it safe for those persons using its premises.

**COUNT ONE**  
**NEGLIGENCE**

15. Plaintiff realleges and incorporates all paragraphs above.

16. Defendant has the duty to exercise ordinary care to keep its premises reasonably safe for all persons who foreseeably might come upon them, and the failure to do so is negligence.

17. Additionally, Defendant has the duty to warn of unsafe conditions, and to remove and clear away, or cause to be removed and cleared away, snow, ice, slush, or other impediment to safe and convenient foot travel on its sidewalks and walkways.

18. Defendant's duty to use ordinary care applies to any condition on the premises even if the danger is known or obvious to Plaintiff.

19. Defendant could easily foresee that allowing snow and ice to accumulate on the walkway immediately in front of its store would pose a danger to those using its premises, such as Plaintiff.

20. Defendant breached these duties by failing to maintain the premises in a reasonably safe condition, causing harm to Plaintiff.

21. Plaintiff was seriously injured in the fall, resulting in surgery. Plaintiff has incurred past medical expenses, and may require future medical expenses.

Furthermore, Plaintiff has been subjected to pain and suffering, emotional distress and all economic and non-economic damages allowed under Montana law.

**WHEREFORE**, Plaintiff prays judgment against Defendant for all damages to which she is entitled to under applicable law in such categories and in such amounts as will be furnished to Defendant in accordance with applicable law, or by amendment, final pretrial order, or proof at trial which include, but are not limited to, past and future medical expenses, past and future out of pocket expenses, past and future pain and mental suffering, loss of enjoyment of life, loss of quality of life, and permanent disfigurement. Plaintiff leaves the precise damages as are just and proper to Plaintiff's trial jury as that jury judges all facts and circumstances presented.

**DEMAND FOR JURY TRIAL**

Plaintiff requests a trial by jury on all causes of action.

DATED this 29th day of September 2021.

/s/ Philip McGrady  
Attorney for Plaintiff



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MONTANA FOURTH JUDICIAL DISTRICT  
MISSOULA COUNTY, MONTANA

ALICE JOHNSON,

Plaintiff,

vs.

WALMART, INC.,

Defendant.

Dept. No. 5

Cause No. DV-21-1203

Judge Shane A. Vannatta

SUMMONS

THE STATE OF MONTANA SENDS GREETINGS TO THE FOLLOWING  
DEFENDANT: WALMART, INC., THROUGH ITS REGISTERED AGENT, CT  
CORPORATION SYSTEM, 3011 AMERICAN WAY, MISSOULA, MT 59808.

You are hereby summoned to answer the Complaint in this action which is filed in the office of the Clerk of this Court, a copy of which is herewith served upon you, and to file your answer and serve a copy thereof upon the Plaintiff's attorney within twenty-one (21) days after the service of the Summons, exclusive of the day of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

WITNESS my hand and the seal of said Court this 1st day of October 2021.

CLERK OF DISTRICT COURT Shirley E. Faust



By: Dona M. Duffy  
Deputy Clerk

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